

REMARKS

Applicant respectfully requests continued examination of the present application, pursuant to and consistent with 37 C.F.R. § 1.114, and in light of the remarks which follow.

Claims 25-48 are pending. The specification is amended herein to include subject matter from WO 00/01730, as presently incorporated by reference on page 10 of the English language specification as filed. This material may specifically be found in the disclosure of WO 00/01730 at page 4, line 34 to page 5, line 23. Applicants note that WO 00/01730 was previously incorporated by reference in its entirety. Claim 46 is amended accordingly. This material is material previously incorporated by reference, and so this amendment contains no new matter.

A sequence listing, as appropriate, will be provided in a separate submission.

Claim Rejection Under 35 U.S.C. § 112

Claim 46 has been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office states that material found in WO 00/01730 is not properly incorporated. Applicants have amended the specification herein to include the disclosure with regard to the structure of the lactoferrin derivatives, peptides from amino acid 12 to amino acid 40 of human lactoferrin. Accordingly, Applicants submit that the present claim 46 is supported by the specification as filed and meets the written description requirement, and request that this rejection be withdrawn.

Double Patenting Rejection

Claim 46 has been provisionally rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1 and 23 of copending application No. 10/092,919. Applicants again note they will consider filing a Terminal Disclaimer as appropriate once allowable subject matter is determined.

Objections to the Specification

The disclosure has been objected to for incorporating essential subject matter from the foreign application WO 00/01730. As noted above, the specification is amended herein to include subject matter from WO 00/01730, as presently incorporated by reference on page 10 of the English language specification as filed. Applicants request that this objection be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claim 46 has been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Ruben et al. (U.S. Publication No. 2002/0072596). Applicants submit that Ruben does not disclose each and every element of the presently claimed invention.

As noted above, the specification has been amended to include the subject matter found on page 4, line 34 to page 5, line 23 of WO 00/01730. According, claim 46 is amended herein to recite peptides derived from lactoferrin found at amino acid 12 to amino acid 40 of human lactoferrin. Ruben does not disclose peptides derived from amino acid 12 to amino acid 40 of human lactoferrin. Ruben further distinguishes between polypeptides and polypeptide fragments. Thus, Ruben does not disclose each and every element of the present invention. Accordingly, Applicants request that this rejection be withdrawn.

Claim Rejections Under 35 U.S.C. § 103

Claim 46 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mita et al. in view of Rekdal ("Construction and synthesis of lactoferrin derivatives with enhanced antibacterial activity", *Journal of Peptide Science*, 1999, 5:32-45).

The Office acknowledges that Mita fails to disclose the administration of lactoferrin derivatives, and thus cites Rekdal as purportedly disclosing lactoferrin derivatives having enhanced microbial activity. However, Rekdal does not teach or suggest that peptides as set forth in WO 00/01730, as incorporated by reference and set forth in the present specification.

Accordingly, Mita in combination with Rekdal fails to disclose or suggest methods for treating a wound and/or improving wound healing comprising administering a therapeutically effective amount of a pharmaceutical composition comprising a peptide derived from amino acid 12 to amino acid 40 of human lactoferrin. Applicants request that this rejection be withdrawn.

CONCLUSION

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.


In the event that there are any questions relating to this Amendment and Reply, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney at 703-838-6563 concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

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